



U.S. Citizenship
and Immigration
Services



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Memorandum

TO: Field Leadership

FROM: Donald Neufeld /s/
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DATE: August 15, 2008

SUBJECT: Guidance on Continuous Residence, Physical Presence, and Overseas Naturalization for a Spouse or Child of a Member of the Armed Forces per Amendments to the Immigration and Nationality Act by the “National Defense Authorization Act for Fiscal Year 2008”

Revision to *Adjudicator’s Field Manual* (AFM) Chapters 71, 73, and 74 (AFM Update AD08-14)

1. Purpose

This memorandum provides field guidance on continuous residence, physical presence, and eligibility for overseas¹ proceedings relating to naturalization in the case of a spouse or child of a member of the Armed Forces of the United States (hereafter “service member” or “member of the Armed Forces”). This memorandum also revises the relevant subchapters of the *Adjudicator’s Field Manual* (AFM) accordingly.

2. Background

On January 28, 2008, the “National Defense Authorization Act for Fiscal Year 2008” (Public Law 110-181) amended sections 284, 319, and 322 of the Immigration and Nationality Act (the Act). These amendments provide certain immigration benefits for any qualifying spouse or child of a member of the Armed Forces. Section 284(b) limits the circumstances under which the

¹ The terms “overseas” and “abroad” are used synonymously in this memorandum to mean “outside of the United States.”

lawful permanent resident (LPR) spouse or child is considered to be seeking admission to the United States; section 319(e) allows the LPR spouse to count any qualifying time abroad as continuous residence and physical presence in the United States and to naturalize overseas; and section 322(d) allows the United States citizen (USC) parent of a child filing for naturalization to count time abroad as physical presence and allows the child to naturalize overseas.

Primarily, the amendments to the Act expand what is considered as “continuous residence” and “physical presence” in the United States in the case of a spouse or child of a member of the Armed Forces who is authorized to accompany and is residing abroad with the service member. Under certain conditions, such a spouse or child may count any period of time that he or she is residing abroad with the service member as residence and physical presence in the United States. This legislation also prescribes that such a spouse or child may be eligible for overseas proceedings relating to naturalization, as previously only permitted for an eligible member of the Armed Forces.²

In general, “continuous residence” concerns the maintenance of the applicant’s residence in the United States over a period of time required by a statute, where “residence” is determined by the applicant’s principal actual dwelling place in the United States.³ “Physical presence” refers to the number of days the person must physically be in the United States. Unless specifically exempt, an applicant for naturalization must satisfy both “continuous residence” and “physical presence” requirements and must have resided in the State or USCIS district having jurisdiction over his or her place of residence for a minimum of three months preceding the filing of the application.⁴

Section 316(a) of the Act prescribes that an applicant for naturalization must have “resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing” must also have “been physically present therein for periods totaling at least half of that time.” The resulting total of 30 months is the minimum physical presence requirement for such an applicant.⁵

Section 319(a) of the Act reduces the required period of continuous residence within the United States from five years to three years and accordingly the required period of physical presence is reduced from 30 months to 18 months for any LPR who is the spouse of a USC.⁶

Section 319(b) of the Act does not require any prior period of residence or specified period of physical presence within the United States for any LPR spouse of a USC who is an employee of the United States Government (including a member of the Armed Forces) or recognized nonprofit organization who is stationed abroad in such employment for at least one year. However, section 319(b) was not amended by the National Defense Authorization Act for Fiscal Year 2008; accordingly, an applicant under section 319(b) is required to be in the United States for examination (interview) and naturalization.⁷

² For example, filings, biometrics capturing, interview(s), oath, and any other necessary proceeding as determined by USCIS. See “National Defense Authorization Act for Fiscal Year 2004” (Pub. L. 108-136; 8 U.S.C. 1443a).

³ See 8 CFR 316.5(a).

⁴ See 8 CFR §§ 316.3, 316.5, and 319.1(a)(5).

⁵ See 8 CFR 316.2(a)(4).

⁶ See 8 CFR 319.1(a)(4).

⁷ See 8 CFR 319.2(a).

3. Field Guidance

Effective immediately, all USCIS Field Offices, Services Centers, and the National Benefits Center are directed to comply with the following guidance and instructions when evaluating continuous residence, physical presence, and eligibility for overseas proceedings relating to naturalization for any applicant who is the spouse or child of a member of the Armed Forces. Major points of emphasis are highlighted in this section and further incorporated into the “Adjudicator’s Field Manual (AFM) Update” section of this memorandum.

A. Definitions, Applicability, and Processing

(1) Armed Forces of the United States

The definition of “Armed Forces of the United States” set forth in 8 CFR 328.1 applies for purposes of sections 284(b), 319(e), and 322(d) of the Act. The Armed Forces are:

1. United States Army, United States Navy, United States Marines, United States Air Force, and United States Coast Guard;⁸ or
2. National Guard unit (when Federally recognized as a reserve component of the Armed Forces of the United States, as mentioned in item 1 above).

(2) Official Orders

Only the following documents issued by the Armed Forces are acceptable as “official orders” for purposes of section 284(b), 319(e), and 322(d) of the Act:

1. Copy of Permanent Change of Station (PCS) orders issued to a member of the Armed Forces for permanent tour of duty overseas that specifically name the spouse or child applying for naturalization; or
2. If the submitted PCS orders do not specifically name the applicant beyond reference to “spouse,” “child,” or “dependent,” then the applicant must submit:
 - Copy of PCS orders
 - Form DD-1278, “Certificate of Overseas Assignment to Support Application to File Petition for Naturalization”⁹ (Department of Defense form); and
 - Copy of service member’s Form DD-1172, “Application for Uniformed Services Identification Card DEERS Enrollment,”¹⁰ naming dependents.

⁸ Although 8 CFR 328.1 includes both active and reserve components of these military branches, only the active component will be eligible to benefit from Public Law 110-181 since the service member must be on active-duty status per official orders to qualify for these benefits.

⁹ See Appendix 3, Form DD-1278 (Department of Defense).

¹⁰ See Appendix 4, Form DD-1172 (Department of Defense).

(3) New Provisions Only Benefit a Spouse or Child of a Member of the Armed Forces

Subsections 284(b), 319(e), and 322(d) of the Act only apply to a spouse or child of a member of the Armed Forces. The new changes do not benefit a spouse or child of a contractor, civilian employee, or any other person that is not a member of the Armed Forces, whether or not he or she is employed by the United States Government.

(4) Fees

All fees associated with the application for naturalization of a spouse or child of a member of the Armed Forces are required, unless specifically exempt.¹¹ The new legislation does not provide any provisions for fee waivers. All fees are still only waived automatically for members of the Armed Forces filing under section 328 or 329 of the Act. The associated fees include the fee for the Form N-400, Application for Naturalization, or Form N-600K, Application for Citizenship and Issuance of Certificate Under Section 322, and the fee for capturing biometrics, if needed. The biometrics fee is not required for those applicants who are fingerprinted abroad.¹²

(5) Filing and Initial Processing

The Nebraska Service Center (NSC) will initially process any application for naturalization relating to the new provisions (Form N-400 or Form N-600K) regardless of whether it is filed from within the United States or abroad. USCIS will permit an applicant residing abroad the option to file his or her application for naturalization directly with the NSC. Until further notice, an applicant may also file the application with the USCIS overseas office having jurisdiction over his or her place of residence, as practicable. The USCIS overseas office, in turn, will forward the application to the NSC.

The NSC unit responsible for receiving these applications currently handles the initial processing of those applications filed for members of the Armed Forces. Those procedures currently in use will be followed for cases relating to a qualifying spouse or child, as practicable.

The fingerprinting of an accompanying spouse or child of a member of the Armed Forces may be expedited by any USCIS Application Support Center (ASC). This will be done in cases where the overseas deployment date of the member of the Armed Forces is imminent. Prior to deployment, the spouse or child may be processed at any ASC site, without appointment, upon presentation of sufficient evidence.

(6) Effective Date of New Provisions

The new provisions became effective as of January 28, 2008, and apply to any Form N-400 or Form N-600K that was pending as of this date. For applications adjudicated on or after this date, field offices should consider this memorandum as a sufficient basis to review an otherwise untimely

¹¹ See 8 CFR 103.7(c) (“Waiver of fees”).

¹² See 8 CFR 103.2(e)(4)(ii) (“Exemptions”).

filed motion to reopen or reconsider a previous decision and to consider waiving the fee for such motions. This should only be done in cases where a qualifying person's application was denied as a result of failing to meet criteria that he or she now meets as a result of the new legislation.

B. Section 319(e): Benefits for a Spouse of a Member of the Armed Forces

(1) Section 319(e) Only Benefits Applicants under Section 316(a) or 319(a)

Section 319(e) of the Act strictly applies to any LPR who is otherwise eligible for naturalization under section 316(a) or 319(a) of the Act. Pursuant to section 319(e), any period of time that such an LPR is residing abroad counts as continuous residence and physical presence in any State or district of the United States, if the applicant meets all of the following conditions during such time:

1. The LPR is the spouse of a member of the Armed Forces;
2. The LPR is authorized to accompany and reside abroad with the member of the Armed Forces pursuant to the service member's official orders; and
3. The LPR is accompanying and residing abroad with the service member in marital union.¹³

The applicant is not required to be abroad at the time the adjudicator makes such determination. For example, an applicant who is currently residing in the United States, but had previously resided abroad during the statutory residency or physical presence period, may count the time abroad as continuous residence and physical presence, if such time abroad was in accordance with all of the criteria of section 319(e).

Unlike applicants filing under section 319(a), a service member's LPR spouse applying for naturalization under section 316(a) does not need to establish that the service member is a USC. Moreover, an LPR who is no longer married to a service member at the time of filing for naturalization under section 316(a) may still meet the residence and physical presence requirements if the LPR was married to the service member and met all the conditions of section 319(e) during the period of time in question.

(2) Section 319(e) is Not a Basis for Naturalization

Section 319(e) does not provide an independent basis for naturalization. Therefore, the adjudicator is advised that applicants should generally indicate that they seek to naturalize under section 316(a) or 319(a) and to rely on section 319(e) to meet the continuous residence and physical presence requirements under section 316(a) or 319(a). Section 319(e) may also be used to determine eligibility for overseas proceedings relating to naturalization. The adjudicator should annotate the Form N-400 appropriately in cases where the applicant has not done so.

¹³ See 8 CFR 319.1(b) (on "marital union").

(3) Filing for Naturalization from Abroad Prior to and After the Enactment of Section 319(e)

Prior to the enactment of section 319(e), with some exceptions, a service member's LPR spouse residing abroad with the service member had to apply for naturalization under section 319(b). This applied to a spouse who was otherwise eligible for naturalization under section 316(a) or 319(a) but whose time abroad rendered them unable to meet the respective continuous residence or physical presence requirements. Though such an LPR filing under section 319(b) was exempt from the continuous residence and physical presence requirements,¹⁴ he or she was still required to return to the United States for his or her interview, naturalization, and any other related procedure.¹⁵

The enactment of section 319(e) allows such an LPR spouse to apply for naturalization from abroad pursuant to section 316(a) or 319(a) and complete any procedure relating to his or her application for naturalization while residing overseas.

(4) Pending Form N-400s Filed under Section 319(b)

Section 319(b) has not been amended by Public Law 110-181. However, a service member's LPR spouse who is residing abroad and who has a pending Form N-400 currently filed under section 319(b) may seek overseas naturalization and use any other provision of section 319(e), if he or she is otherwise eligible for naturalization under section 316(a) or 319(a).

On the other hand, any applicant for naturalization under section 319(b) who is not otherwise eligible for naturalization under section 316(a) or 319(a) at the time of filing does not benefit from section 319(e).

Effective immediately, all USCIS Field Offices, Service Centers, and the National Benefits Center should review any pending Form N-400 that has been filed by a spouse of a member of the Armed Forces pursuant to section 319(b). The adjudicator should determine if the applicant is eligible for naturalization under section 316(a) or 319(a) and thereby potentially eligible for the provisions of section 319(e).

If such a determination is made, the USCIS Field Office or Service Center should notify the applicant of the following options and respective consequence for continuing the application process for naturalization:

Option 1: Continue pursuant to section 319(b)

Consequence: Will require the applicant to return to the United States for any pending procedure relating to his or her naturalization application, including interview and oath.

OR

¹⁴ See section 319(b)(3) of the Act.

¹⁵ See section 319(b)(2) of the Act and 8 CFR 319.2(a)(3) (naturalization); 8 CFR 319.2(a)(2) (examination); and any other necessary procedure as determined by USCIS (additional filings, biometrics capturing, etc.).

Option 2: Continue from abroad pursuant to section 316(a) or 319(a)

Consequence: The applicant may complete any pending procedure relating to his or her naturalization application from abroad, as provided by section 319(e).

If the adjudicator determines that an applicant is not eligible for naturalization under section 316(a) or 319(a), even with the provisions of section 319(e), the adjudicator will continue to process the Form N-400 as filed, pursuant to section 319(b). It is important to remember that it is the date of the filing of the Form N-400 under section 319(b) that will determine eligibility, not whether the applicant is eligible at the time the application is being reviewed. The adjudicator should notify the applicant that his or her Form N-400 has been reviewed per the change of law, that he or she does not qualify for the provisions under section 319(e) or for overseas naturalization, and that his or her application will continue to be processed pursuant to section 319(b).

The adjudicator should annotate the Form N-400 (“Remarks” block on page 1) and update the A-file in accordance with NQP guidance to record the action taken, including whether or not the applicant qualifies for the provisions under section 319(e). This may include interfiling copies of relevant documents, mailings, restricted materials, and memoranda to file.

C. Section 322(d): Benefits for a Child of a Member of the Armed Forces

(1) Physical Presence of USC Parent under Section 322(d) of the Act

Section 322(d) of the Act benefits any child of a USC who is a member of the Armed Forces residing abroad. Any period of time the service member is residing or has resided abroad is treated as physical presence in the United States for purposes of section 322(a)(2)(A), if all of the following conditions have been met:

1. The child is authorized to accompany and reside abroad with the member of the Armed Forces pursuant to the service member’s official orders;
2. The child is accompanying and residing abroad with the service member; and
3. The member of the Armed Forces is residing or has resided abroad per official orders.

The first two conditions above are the triggering events that allow any period of time abroad to count as physical presence in the United States for the USC parent for purposes of section 322(a)(2)(A). If at the time of filing the Form N-600K the child is residing abroad with his or her USC parent member of the Armed Forces per official orders, then any previous time the parent has resided abroad on official orders will be treated as physical presence in the United States for purposes of section 322(a)(2)(A) regardless of whether or not the child actually resided with the parent.

(2) Applicable Definition of “Child” for Section 322

The applicable definition of “child” for section 322 is found at section 101(c)(1) of the Act. Section 101(c)(1) defines a “child” as an unmarried person under the age of twenty-one. However,

because section 322 only applies to individuals who are under eighteen years of age, only an unmarried child of a member of the Armed Forces who is under the age of eighteen will be eligible for the benefits of section 322. A child legitimated while under the age of sixteen may also qualify if legitimated “under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere.”¹⁶ A child who has been adopted qualifies if he or she satisfies the requirements applicable to adopted children under section 101(b)(1) of the Act.¹⁷ A step-child is not included in the applicable definition and thus, a step-child of a member of the Armed Forces does not qualify for naturalization under section 322.

(3) Lawful Admission and Status Not Required under Section 322(d)

Section 322(d) exempts any child of a member of the Armed Forces who is residing abroad with the service member per official orders from the temporary physical presence, lawful admission, and maintenance of lawful status requirements under section 322(a)(5). Accordingly, the adjudicator must not require any eligible child applying for naturalization under section 322 to show evidence of complying with those requirements.

(4) Comparison of Section 320 and Section 322 of the Act

Adjudicators have sought guidance on the effects of processing and adjudicating applications for naturalization for any child of a member of the Armed Forces filing under section 320 or 322 of the Act pursuant to the enactment of Public Law 110-181. Unlike section 322, section 320 has not been amended by the new legislation.

In order to qualify for naturalization under section 320, any child, including the child of a member of the Armed Forces, must be an LPR. A child of a service member who has automatically acquired citizenship under section 320 must still follow the existing filing instructions on the Form N-600, Application for Certificate of Citizenship.¹⁸

On the other hand, in order to qualify for naturalization under section 322, as amended by the new legislation, the child of a service member is not required to be an LPR or to have any other kind of lawful admission in the United States. Moreover, such a child may complete his or her entire naturalization process from abroad.¹⁹ Applicants eligible under section 322 must file the Form N-600K.

The adjudicator must ensure that the child of a member of the Armed Forces has not acquired citizenship under section 320 prior to making a determination that he or she qualifies for naturalization under section 322.

¹⁶ See section 101(c)(1) of the Act.

¹⁷ A child who has been adopted while under the age of sixteen and has resided in the legal custody of the adopting parent(s) for at least two years qualifies (section 101(b)(1)(E)(i)). An adopted child, as described in section 101(b)(1)(F) or (G), is not required to have resided in the legal custody of the adopting parent(s) for two years. Further, a child adopted while under the age of eighteen, as described in section 101(b)(1)(E)(ii) or (F)(ii), may also qualify.

¹⁸ Also, see USCIS Policy Memorandum No. 103, issued on May 6, 2004, for further guidance.

¹⁹ See section 322(d) of the Act.

D. Sections 319(e) and 322(d): Naturalization Proceedings Overseas

(1) Eligibility for a Spouse or Child of a Member of the Armed Forces

The spouse or child of a member of the Armed Forces who applies for naturalization and meets all of the respective criteria under section 316(a) or 319(a) and section 319(e), or section 322(d) is eligible for any naturalization proceeding overseas. The overseas proceedings relating to naturalization include “any applications, interviews, filings, oaths, ceremonies, or other proceedings [relating to naturalization]” and should be made available to qualifying applicants “through United States embassies, consulates, and as practicable, United States military installations overseas.”²⁰

All USCIS Field Offices, Service Centers, and the National Benefits Center must facilitate the overseas processing of any proceeding relating to naturalization for any spouse or child of a member of the Armed Forces who qualifies, as indicated in this memorandum.

(2) Spouse’s Naturalization Abroad

Section 319(e)(2) of the Act permits any LPR spouse of a service member residing abroad, who is otherwise eligible for naturalization under section 316(a) or 319(a), to participate in any naturalization proceeding while abroad, if he or she meets all of the conditions under section 319(e)(1).

(3) Child’s Naturalization Abroad

Section 322(d)(3) of the Act allows the child of a service member who meets the criteria in section 322(d) to take the oath of allegiance from abroad, if necessary. Prior to the enactment of section 322(d), the child was required to take the oath of allegiance before a USCIS officer in the United States in order to acquire citizenship.

E. Section 284(b): Re-entry after Residing Abroad for a Spouse or Child

Section 284(b) of the Act limits the circumstances under which an LPR is considered to be seeking admission to the United States. Section 284(b) of the Act, prescribes that any period of time that an LPR spouse or child of a service member is residing or has resided abroad must not be treated as an abandonment of his or her LPR status²¹ or as an absence from the United States for a continuous period of more than 180 days²² if, during such time abroad:

1. The LPR is authorized to accompany and reside abroad with the member of the Armed Forces pursuant to the service member’s official orders; and
2. The LPR is so accompanying and residing abroad with the service member (if a spouse, doing so in marital union).

²⁰ See 8 U.S.C. 1443a, as amended by Pub. L. 110-181 (statutory authority for overseas naturalization). Also, see section 319(e)(2) and section 322(d)(3).

²¹ Pursuant to section 101(a)(13)(C)(i) of the Act.

²² Pursuant to section 101(a)(13)(C)(ii) of the Act.

4. Adjudicator's Field Manual (AFM) Update

The *Adjudicator's Field Manual* (AFM) is updated accordingly and the following subchapters of the AFM are revised: 71.1(d)(3); 73.3(c)(2), (f), and (h); 73.4(g) and (g)(8); 73.5(d); 74.2(b)(2), (b)(8), (c)(10)(A) – (D), (d)(2)(C), and (d)(2)(D).

1. Subchapter 71.1(d)(3) of the AFM is revised to read as follows:

71.1 ACQUISITION AND DERIVATION

(d) "Derivation" of U.S. Citizenship. * * *

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(3) Other Persons Eligible for Certificates of Citizenship.

The CCA amended section 322 of the Act to cover foreign-born children not eligible under section 320 of the Act who are residing outside the United States with a United States citizen parent.

Under section 322 of the Act, such a child will become a citizen of the United States upon the approval of his or her Form N-600K, Application for Citizenship and Issuance of Certificate under Section 322, and upon taking the oath of allegiance. In certain cases, the taking of the oath may be waived (e.g., if the child is considered too young to understand the meaning of the oath). See section 337(a) of the Act. If the taking of the oath is waived, then the child becomes a citizen on the date his or her application for citizenship is approved. Both the approval of the application for citizenship and the taking of the oath (if necessary), must occur before the child reaches the age of eighteen. The child will receive an "A" Certificate of Citizenship (Form N-560). See section 322 of the Act and Chapter 75.1(c) of this manual (Waiver of the Oath).

(A) Persons Eligible to File the Application for Citizenship under Section 322.

In general, the United States citizen parent with legal and physical custody of a biological or adopted child files the Form N-600K on behalf of the child. The child must be under 18 years old. Stepchildren are not eligible under section 322. See 8 CFR 322; Appendix 71-7 and Chapter 71.1(b) of this manual (Definition of Child for Naturalization and Citizenship).

As of November 2, 2002, a United States citizen (USC) grandparent or USC legal guardian became eligible to apply for naturalization on behalf of a child, pursuant to amendments to section 322 of the Act (by the "21st Century Department of Justice Appropriations Authorization Act for Fiscal 2002," Pub. L. 107-273). Under this amended provision, if a USC parent of a child who otherwise meets the eligibility requirements of section 322 has died, a USC parent of the USC parent (i.e., grandparent) or a USC legal guardian of the child may file the application for

citizenship at any time within five years of the parent's death. Only in such cases may any person other than the USC parent file an application for citizenship on behalf of a child pursuant to section 322. (See Appendix 71-8 of this field manual.)

The Form N-600K is filed with the USCIS office in the United States where the child and USC parent, or otherwise eligible person, wish to appear for the interview. If the adjudicator considers the application to be approvable, an appointment notice will be sent to the parent and child. The appointment notice should be taken to a United States Consulate or the consular section of a United States Embassy in order to obtain a nonimmigrant visa for the child, if a visa is required for entry in the United States. See Chapter 71.1(f) (Adjudicating the Application). For a child of a member of the Armed Forces, see paragraph below ("Exceptions for a Child of a Member of the Armed Forces").

In the case of a child who is adopted, documentation must be submitted along with the Form N-600K to establish that the adoption took place accordingly.

A child who is adopted while under the age of sixteen and who has resided in the legal custody of the adopting USC parent(s) for at least two years qualifies. See section 101(b)(1)(E)(i). However, the required two years of residing in the legal custody of the adopting parent(s) does not apply to an adopted child described in section 101(b)(1)(F), or (G). Further, an adopted child as described in section 101(b)(1)(E)(ii) or (F)(ii), who is adopted while under the age of eighteen may also qualify.

A child legitimated while under the age of sixteen may qualify if the process of legitimating was done "under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere." See section 101(c)(1) of the Act.

A child who is an orphan and adopted, as defined in section 101(b)(1)(F) of the Act, must submit evidence of an approved Form I-600, Petition to Classify Orphan as an Immediate Relative, or evidence that the child has been admitted for lawful permanent residence with the immigrant classification of IR-3 or IR-4.

A Convention child, as defined in section 101(b)(1)(G) of the Act, must submit evidence of an approved Form I-800, Petition to Classify Convention Adoptee as an Immediate Relative or evidence that the child has been admitted for lawful permanent residence with the immigrant classification of IH-3 or IH-4.

(B) Lawful Admission and Status in the US Required under Section 322.

Except as otherwise provided, the naturalization process for a child filing under section 322 of the Act cannot take place solely overseas. The child is required to be temporarily present in the United States pursuant to a lawful admission, to maintain

such lawful status, and to take the oath of allegiance in the United States. See section 322(a)(5) of the Act (Lawful Admission and Status Requirements). Note that a “parole” is not considered an “admission.” See section 101(a)(13) of the Act (Definition of “admission”).

(C) Exceptions for a Child of a Member of the Armed Forces.

Section 322(d) of the Act, as amended by Pub. L. 110-181 (enacted January 28, 2008), exempts any child of a member of the Armed Forces who is residing abroad with the service member per official orders from the temporary physical presence, lawful admission, and maintenance of lawful status requirements under section 322(a)(5). Accordingly, the adjudicator must not require any eligible child applying for naturalization under section 322 to show evidence of complying with those requirements. Such a child is eligible for any overseas proceedings relating to naturalization pursuant to section 322(d)(3).

See 8 CFR 328.1 (Organizations considered as “Armed Forces of the United States”). See Chapter 73.3(h) of this manual (Documenting Continuous Residence) for details on what USCIS will accept as “official orders.”

(D) Physical Presence of Qualifying Parent, Grandparent, or Legal Guardian.

The adjudicator must ensure that the United States citizen (USC) parent, grandparent, or legal guardian meets the required physical presence in the United States, pursuant to section 322 of the Act. In the case of a USC grandparent, who is the parent of the child’s USC parent, filing on behalf of a child within five years of the death of the child’s parent, the physical presence required could have taken place before or after the birth of the child and filing of application.

Further, a child remains eligible after the death of the USC grandparent, if the USC grandparent met the physical presence requirement in section 322(a)(2)(B) at the time of his or her death. See Policy Memorandum No. 94, “Effect of Grandparent’s Death on Naturalization under INA Section 322” (issued April 17, 2003).

(E) Physical Presence of Qualifying Parent Member of the Armed Forces.

Section 322(d) prescribes that any period of time a member of the Armed Forces is residing or has resided abroad is treated as physical presence in the United States for purposes of section 322(a)(2)(A), if all of the following conditions have been met:

- 1) The child is authorized to accompany and reside abroad with the member of the Armed Forces pursuant to the service member’s official orders;
- 2) The child is accompanying and residing abroad with the service member; and
- 3) The member of the Armed Forces is residing or has resided abroad per official orders.

The first two conditions above are the triggering events that allow any period of time abroad to count as physical presence in the United States for the USC parent for purposes of section 322(a)(2)(A). If at the time of filing the Form N-600K the child is residing abroad with his or her USC parent member of the Armed Forces, then any previous time the parent has resided abroad on official orders will be treated as physical presence in the United States for purposes of section 322(a)(2)(A) regardless of whether or not the child actually resided with the parent.

See 8 CFR 328.1 (Organizations considered as “Armed Forces of the United States”). See Chapter 73.3(h) of this manual (Documenting Continuous Residence) for details on what USCIS will accept as “official orders.”

* * * * *

2. Subchapter 73.3(c)(2) of the AFM is updated by adding the following non-designated paragraph at the end to read as follows:

73.3 CONTINUITY OF RESIDENCE

(c) Statutorily Defined Breaks in Continuity of Residence. * * *

* * * * *

(2) Absence for a Continuous Period of 1 Year or More. * * *

* * *

Note that there are special circumstances that may affect the consideration of absences for an LPR who is the spouse or child of a member of the Armed Forces. For example, for purposes of determining if such an LPR is seeking admission to the United States, section 284(b) of the Act prescribes that any period of time that he or she is residing or has resided abroad pursuant to the service member’s official orders (and if a spouse, doing so in marital union), must not be treated as:

- 1) An abandonment of his or her LPR status for purposes of section 101(a)(13)(C)(i); or
- 2) An absence from the United States for a continuous period of more than 180 days for purposes of section 101(a)(13)(C)(ii).

See section 284(b) and 319(e) of the Act. See Chapter 74.2(c)(10)(C) (Part-by-Part Discussion of Form N-400 Data), Chapters 73.3 (Continuity of Residence), and Chapter 73.5 (Physical Presence) of this manual.

* * * * *

3. Subchapter 73.3(f) of the AFM is updated by adding the new subparagraphs (6) and (7) to read as follows:

(f) Classes of Applicants Eligible for Constructive Continuous Residence While Outside the United States. * * *

* * * * *

(6) Spouse of a Member of the Armed Forces.

Section 319(e) of the Act prescribes that any period of time that an LPR who is otherwise eligible for naturalization under section 316(a) or 319(a) is residing abroad counts as continuous residence and physical presence in any State or district of the United States, if the applicant meets all of the following conditions during such time spent abroad:

- 1) The LPR is the spouse of a member of the Armed Forces;
- 2) The LPR is authorized to accompany and reside abroad with the member of the Armed Forces pursuant to the service member's official orders; and
- 3) The LPR is accompanying and residing abroad with the service member in marital union.

The applicant is not required to be abroad at the time the adjudicator makes such determination. For example, an applicant who is currently residing in the United States, but had previously resided abroad during the statutory residency or physical presence period, may count the time abroad as continuous residence and physical presence, if such time abroad was in accordance with all of the criteria in section 319(e).

See 8 CFR 319.1(b) (Marital Union); See 8 CFR 328.1 (Organizations considered as "Armed Forces of the United States"). Also, see Chapter 73.3(h) of this manual (Documenting Continuous Residence).

(7) Child of a U.S. Government Employee Temporarily Stationed Abroad.

For purposes of acquisition of citizenship under section 320 of the Act, Policy Memorandum No.103 (issued on May 6, 2004) instructs that the child of a United States citizen (USC) employee of the United States Government (including the Armed Forces) residing abroad, will be considered to be "residing in the United States." This applies to any such child who had to return abroad after their admission as an LPR because of their USC parent's government employment or military deployment.

* * * * *

4. Subchapter 73.3(h) of the AFM is updated by adding the following non-designated paragraphs at the end to read as follows:

(h) Documenting Continuous Residence.

* * *

Note that there are special circumstances that may affect the consideration of continuous residence for an LPR who is the spouse or child of a member of the Armed Forces. In such cases, the applicant has the burden of establishing by a preponderance of the evidence that the period of time he or she is residing or has resided abroad is authorized per the service member's official orders. It is not sufficient that such an LPR resided with the service member without being expressly authorized to do so per the service member's official orders. The official orders must mention that such an LPR is authorized to reside and accompany the service member abroad for the specific period of time under consideration.

Only the following documents issued by the Armed Forces are acceptable as "official orders" for purposes of section 284(b), 319(e), and 322(d) of the Act:

- 1) Copy of Permanent Change of Station (PCS) orders issued to a member of the Armed Forces for permanent tour of duty overseas that specifically name the spouse or child applying for naturalization; **or**
- 2) If the submitted PCS orders do not specifically name the applicant beyond reference to "spouse," "child," or "dependent," then the applicant must submit:
 - Copy of PCS orders
 - Form DD-1278, "Certificate of Overseas Assignment to Support Application to File Petition for Naturalization" (Department of Defense form); and
 - Copy of service member's Form DD-1172, "Application for Uniformed Services Identification Card DEERS Enrollment," naming dependents.

See 8 CFR 328.1 (Organizations considered as "Armed Forces of the United States"). See Chapters 73.3 (Continuity of Residence) and Chapter 73.5 (Physical Presence) of this manual.

* * * * *

5. Subchapter 73.4(g) of the AFM is updated by adding the new subparagraphs (7) and (8) to read as follows:

73.4 JURISDICTION

(g) Determining Residence in Special Cases. * * *

* * * * *

(7) Spouse of a Member of the Armed Forces.

Section 319(e) of the Act prescribes that any period of time that an LPR who is otherwise eligible for naturalization under section 316(a) or 319(a) is residing abroad counts as continuous residence and physical presence in any State or district of the

United States, if the applicant meets all of the following conditions during such time spent abroad:

- 1) The LPR is the spouse of a member of the Armed Forces;
- 2) The LPR is authorized to accompany and reside abroad with the member of the Armed Forces pursuant to the service member's official orders; and
- 3) The LPR is accompanying and residing abroad with the service member in marital union.

The applicant is not required to be abroad at the time the adjudicator makes such determination. For example, an applicant who is currently residing in the United States, but had previously resided abroad during the statutory residency or physical presence period, may count the time abroad as continuous residence and physical presence, if such time abroad was in accordance with all of the criteria in section 319(e).

See 8 CFR 319.1(b) (Marital Union); See 8 CFR 328.1 (Organizations considered as "Armed Forces of the United States"). Also, see Chapter 73.3(h) of this manual (Documenting Continuous Residence).

(8) Child of a U.S. Government Employee Temporarily Stationed Abroad.

For purposes of acquisition of citizenship under section 320 of the Act, Policy Memorandum No.103 (issued on May 6, 2004) instructs that the child of a United States citizen (USC) employee of the United States Government (including the Armed Forces) residing abroad, will be considered to be "residing in the United States." This applies to any such child who had to return abroad after their admission as an LPR because of their USC parent's government employment or military deployment.

* * * * *

6. Subchapter 73.5(d) of the AFM is updated by adding the new subparagraph (5) to read as follows:

73.5 PHYSICAL PRESENCE

(d) Classes of Applicants Eligible for Constructive Physical Presence While Outside The United States. * * *

* * * * *

(5) Spouse of a Member of the Armed Forces.

Section 319(e) of the Act prescribes that any period of time that an LPR who is otherwise eligible for naturalization under section 316(a) or 319(a) is residing abroad counts as continuous residence and physical presence in any State or district of the

United States, if the applicant meets all of the following conditions during such time spent abroad:

- 1) The LPR is the spouse of a member of the Armed Forces;
- 2) The LPR is authorized to accompany and reside abroad with the member of the Armed Forces pursuant to the service member's official orders; and
- 3) The LPR is accompanying and residing abroad with the service member in marital union.

The applicant is not required to be abroad at the time the adjudicator makes such determination. For example, an applicant who is currently residing in the United States, but had previously resided abroad during the statutory residency or physical presence period, may count the time abroad as continuous residence and physical presence, if such time abroad was in accordance with all of the criteria in section 319(e).

See 8 CFR 319.1(b) (Marital Union); See 8 CFR 328.1 (Organizations considered as "Armed Forces of the United States"). Also, see Chapter 73.3(h) of this manual (Documenting Continuous Residence).

* * * * *

7. Subchapter 74.2(b)(2) of the AFM is updated by adding the following non-designated paragraphs at the end to read as follows:

74.2 PART-BY-PART DISCUSSION OF FORM N-400 DATA

(b) Part 2: Basis for Eligibility. (check one)

* * * * *

(2) Filing the Application for Naturalization. * * *

* * *

Pursuant to section 319(e)(2) of the Act, the Form N-400 may be filed from abroad in the case of an LPR spouse of a member of the Armed Forces residing with the service member per official orders, so long as he or she meets all of the conditions as prescribed in section 319(e)(1). The LPR must also be otherwise eligible for naturalization under section 316(a) or 319(a) of the Act.

Such an LPR may file under section 316(a) or 319(a), as appropriate, and may complete the entire process (including oath) from abroad. Note that an applicant will likely need to use the provisions of section 319(e)(1), which expand what is considered as "continuous residence" and "physical presence," to meet such requirements. Notwithstanding any other provision of law, such an LPR is not required to return to the United States for purposes of completing any procedure relating to his or her naturalization application.

Prior to the enactment of section 319(e) (added to the Act by Pub. L. 110-181), with some exceptions, a service member's LPR spouse residing abroad with the service member had to apply for naturalization under section 319(b). This applied to a spouse who was otherwise eligible for naturalization under section 316(a) or 319(a) but whose time abroad rendered them unable to meet the respective continuous residence or physical presence requirements. Though such an LPR filing under section 319(b) was exempt from the continuous residence and physical presence requirements, he or she was still required to return to the United States for his or her interview, naturalization, and any other related procedure. See section 319(b)(2) of the Act and 8 CFR 319.2(a)(3) (naturalization); 8 CFR 319.2(a)(2) (examination); and any other necessary procedure as determined by USCIS (additional filings, biometrics capturing, etc.).

The enactment of section 319(e) allows such an LPR spouse to apply for naturalization from abroad pursuant to section 316(a) or 319(a) and complete any procedure relating to his or her application for naturalization while he or she is residing overseas.

Note that it is not required for such an applicant to be abroad to benefit from the provisions of section 319(e). This would be the case for an applicant that is currently residing in the United States and files for naturalization under section 316(a) or 319(a), but who had previously resided abroad during the statutory residency period. If such time abroad was in accordance with all of the provisions of section 319(e), then it must be treated as continuous residence and physical presence in the United States.

The adjudicator should refer to sections 319(b) and 319(e) of the Act; Chapter 73.3 (Continuity of Residence), Chapter 73.4 (Jurisdiction), and Chapter 73.5 (Physical Presence) of this manual. Also, 8 CFR 328.1 (Organizations considered as "Armed Forces of the United States"). Statutory authority for "Naturalization Proceedings Overseas for Members of the Armed Forces and Their Spouses and Children" can be found at 8 U.S.C. 1443a, as amended by Pub. L. 110-181 (enacted January 28, 2008).

* * * * *

8. Subchapter 74.2(b)(8) of the AFM is updated by adding the new subparagraph (I) to read as follows:

(8) Application Based on Other Provisions of Law. * * *

* * * * *

(I) Section 319(e) of the Act.

Under certain circumstances, an LPR who is the spouse of a member of the Armed Forces may use section 319(e) to consider any period of time he or she is residing or has resided abroad with the service member as continuous residence and

physical presence in the United States, to meet the residency requirements of section 316(a) or 319(a). Section 319(e) does not provide an independent basis for naturalization. Therefore, the adjudicator is advised that applicants should generally indicate that they seek to naturalize under section 316(a) or 319(a) and to rely on section 319(e) to meet the continuous residence and physical presence requirements under section 316(a) or 319(a). Section 319(e) may also be used to determine eligibility for overseas proceedings relating to naturalization. The adjudicator should annotate the Form N-400 appropriately in cases where the applicant has not done so.

Note that it is not required for such an applicant to be abroad to benefit from the provisions of section 319(e). This would be the case for an applicant that is currently residing in the United States and files for naturalization under section 316(a) or 319(a), but who had previously resided abroad during the statutory residency period. If such time abroad was in accordance with all of the provisions of section 319(e), then it must be treated as continuous residence and physical presence in the United States.

Further, unlike applicants filing under section 319(a), an LPR spouse of a member of the Armed Forces applying for naturalization under section 316(a) does not need to establish that the member of the Armed Forces is a USC. Moreover, an LPR who is no longer married to a member of the Armed Forces at the time of filing for naturalization under section 316(a) may still meet the residence and physical presence requirements if the LPR was married to the member of the Armed Forces and met all the conditions of section 319(e) during the period of time in question.

Notwithstanding any other provision of law, an overseas applicant who meets all of the requirements of section 319(e)(1) and who otherwise qualifies for naturalization under section 316(a) or 319(a) is eligible for any overseas proceeding relating to naturalization, pursuant to section 319(e)(2). See discussion in subchapter 74.2(b)(2) of this manual.

The adjudicator should also refer to section 319(e) of the Act; Chapter 73.3 (Continuity of Residence), Chapter 73.4 (Jurisdiction), and Chapter 73.5 (Physical Presence) of this manual. Also, see 8 CFR 328.1 (Organizations considered as “Armed Forces of the United States”). Statutory authority for “Naturalization Proceedings Overseas for Members of the Armed Forces and Their Spouses and Children” can be found at 8 U.S.C. 1443a, as amended by Pub. L. 110-181 (enacted January 28, 2008).

* * * * *

9. Subchapter 74.2(c)(10)(A) of the AFM is updated by adding the following non-designated paragraph at the end to read as follows:

(c) Part 3: Additional Information about You. * * *

* * * * *

(10) Have you been absent from the U.S. since becoming a permanent resident?

* * *

(A) General. * * *

* * *

Note that there are special considerations for a spouse or child of a member of the Armed Forces, which may affect the treatment of absences, continuous residence, and physical presence. The adjudicator should consider the related discussion or follow the citation provided under each affected subparagraph of this subchapter 74.2(c)(10) of this manual.

* * * * *

10. Subchapter 74.2(c)(10)(B) of the AFM is updated by adding the following non-designated paragraphs at the end to read as follows:

(B) 'Physical Presence' vs. 'Continuous Residence.' * * *

* * *

Note that there are special considerations for a spouse or child of a member of the Armed Forces, which may affect the treatment of “continuous residence” and “physical presence.” For instance, the adjudicator must consider any period of time that any such LPR, who is otherwise eligible for naturalization under section 316(a) or 319(a) of the Act, is residing abroad as continuous residence and physical presence in any State or district of the United States pursuant to section 319(e) of the Act, if all of the conditions therein have been met. For these purposes, the adjudicator should refer to section 319(e) and section 322(d) of the Act and from this manual, Chapter 73.3(f)(6) (Constructive Continuous Residence) and Chapter 73.5(d)(5) (Constructive Physical Presence). Also, see Policy Memorandum No.103, issued on May 6, 2004 (child qualifying under section 320 residing abroad).

For a detailed explanation of the requirements of continuous residence and physical presence for naturalization, see Chapter 73.3 (Continuity of Residence) and Chapter 73.5 (Physical Presence) of this manual.

* * * * *

11. Subchapter 74.2(c)(10)(C) of the AFM is updated by adding the following non-designated paragraphs at the end to read as follows:

(C) Absences of Between Six Months and One Year. * * *

* * *

Note that there are special considerations for an LPR who is a spouse or child of a member of the Armed Forces, which may affect the treatment of absences (as well as continuous residence and physical presence). Under certain circumstances, the period of time that such an applicant is residing or has resided abroad, may count as continuous residence and physical presence in the United States. The applicant has the burden of establishing by a preponderance of the evidence that the period of time he or she is residing or has resided abroad is authorized per the official orders of the member of the Armed Forces. The adjudicator should review the official military orders when making such a determination.

See section 284(b) and section 319(e) of the Act and from this manual, see Chapter 73.3(f)(6) (Constructive Continuous Residence), Chapter 73.3(h) (Documenting Continuous Residence), Chapter 73.5(d)(5) (Constructive Physical Presence), and the related discussion in Chapter 74.2(c)(10)(D) (Absences of Between Six Months and One Year).

* * * * *

12. Subchapter 74.2(c)(10)(D) of the AFM is revised to read as follows:

(D) Absences in Excess of One Year.

Unless an applicant can establish otherwise, or applies for benefits in accordance with 8 CFR 316.5(d), an absence from the United States for a continuous period of one (1) year or more during the period for which continuous residence is required shall disrupt the continuity of the applicant's residence.

The adjudicator should note that an applicant for naturalization who has been absent from the United States for a continuous period in excess of one year during the five-year statutory residence period, may file an application for naturalization four years and one day following the date of his or her return to the United States to resume permanent residence. An applicant for naturalization who must satisfy a three-year statutory residence period, who has such an absence during such period, may file two years and one day after his or her return. See 8 CFR 316.5(c).

Note that there are special considerations for an LPR who is a spouse or child of a member of the Armed Forces, which may affect the treatment of absences (as well as continuous residence and physical presence). Under certain circumstances, the period of time that such an applicant is residing or has resided abroad, may count as continuous residence and physical presence in the United States. See section 284(b) and section 319(e) of the Act. Also, see Chapter 73.3 (Continuity of Residence), Chapter 73.5 (Physical Presence), and the related discussion in Chapter 74.2(c)(10)(C) (Absences of Between Six Months and One Year) of this manual.

* * * * *

13. Subchapter 74.2(d)(2)(C) of the AFM is revised to read as follows:

(d) Part 4: Information about your residence and employment.

* * * * *

(2) N-400 Question Review. * * *

* * * * *

(C) Residence in Specific Cases.

A member of the Armed Forces of the United States or a student who is an applicant for naturalization may have multiple locations to choose from when listing their principal place of residence on the Form N-400. Further, the place of residence for an applicant who is the spouse of a member of the Armed Forces residing abroad with the service member may be any State or district of the United States, if all of the requirements under section 319(e)(1) of the Act have been met. See section 319(e)(1). Also, see 8 CFR 328.1 (Organizations considered as "Armed Forces of the United States").

* * * * *

14. Subchapter 74.2(d)(2)(D) of the AFM is updated by adding the following non-designated paragraphs at the end to read as follows:

(D) Absences and Disruption of Continuity of Residence. * * *

* * *

An applicant who is the spouse of a member of the Armed Forces who provides a foreign address (indicating a period of time in which he or she resided abroad) is not required to have filed the Form N-470, if such an applicant meets all of the conditions under section 319(e)(1) of the Act. Such time abroad must be treated as continuous residence and physical presence in the United States. The adjudicator should refer to section 319(e) of the Act; Chapter 73.3 (Continuity of Residence), Chapter 73.4 (Jurisdiction), and Chapter 73.5 (Physical Presence) of this manual.

In general, there are special considerations for a spouse or child of a member of the Armed Forces, which may affect the treatment of absences, continuous residence, and physical presence. For these purposes, the adjudicator should refer to section 284(b) and section 319(e) of the Act and from this manual, Chapter 73.3(f)(6) (Constructive Continuous Residence) and Chapter 73.5(d)(5) (Constructive Physical Presence).

For a detailed explanation of the requirements of continuous residence and physical presence for naturalization, see Chapter 73.3 (Continuity of Residence) and Chapter 73.5 (Physical Presence) of this manual.

* * * * *

<p>AD08-14 [08-15-2008]</p>	<p>Chapters: 71.1(d)(3); 73.3(c)(2), (f)(6), (f)(7), and (h); 73.4(g)(7) and (g)(8); 73.5(d)(5); 74.2(b)(2), (b)(8)(I), (c)(10)(A), (c)(10)(B), (c)(10)(C), (c)(10)(D), (d)(2)(C), and (d)(2)(D).</p>	<p>This memorandum revises the following subchapters of the <i>Adjudicator’s Field Manual</i>: 71.1(d)(3); 73.3(c)(2), (f), and (h); 73.4(g); 73.5(d); 74.2(b)(2), (b)(8), (c)(10)(A) – (D), (d)(2)(C), and (d)(2)(D). These revisions provide guidance on continuous residence, physical presence, and overseas naturalization for a spouse or child of a member of the Armed Forces, per amendments to the INA by the “National Defense Authorization Act for Fiscal Year 2008,” Pub. L. 110-181 (as enacted January 28, 2008).</p>
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5. Use

This memorandum is intended solely for the instruction and guidance of USCIS personnel in performing their duties relative to adjudications. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner. In addition, the instruction and guidance in this memorandum is in no way intended to and does not prohibit enforcement of the immigration laws of the United States.

6. Contact Information

Questions regarding this memorandum may be directed through appropriate supervisory channels to Oscar Silwany, Office of Policy and Strategy; Thomas E. Curley, Office of Refugee, Asylum and International Operations; David Tu, Office of Service Center Operations; or Gerard Casale, Office of Field Operations.

Distribution: Regional Directors
 District Office Directors
 Service Center Directors
 Field Office Directors (Including Overseas)
 Asylum Office Directors
 National Benefits Center Director

cc: USCIS Headquarters Directorates
 US Immigration and Customs Enforcement (ICE)
 US Customs and Border Protection (CBP)

Attachments (4):

- (1) Summary of Changes to INA
- (2) Sections of the INA amended by Pub. L. 110-181
- (3) Form DD-1278
- (4) Form DD-1172

Appendix 1
Summary of Changes to the INA

As amended by the “National Defense Authorization Act for Fiscal Year 2008” (enacted Jan. 28, 2008)

INA Section Amended	Brief Description of New Provisions
section 284(b) subsection ‘(b)’ added to existing sec. 284	Under certain conditions, time residing abroad for an LPR spouse or child of a member of the Armed Forces must not be treated as (1) an abandonment of LPR status; or (2) an absence from the United States of over 180 days for purposes of section 101(a)(13)(C)(i) and (ii) of the Act.
section 319(e) subsection ‘(e)’ added to existing sec. 319	Under certain conditions: 1) Allows any LPR who is eligible for naturalization under section 316(a) or 319(a) to count time residing abroad as the spouse of a member of the Armed Forces as residence and physical presence in the United States. 2) Allows for any LPR, currently a spouse of a member of the Armed Forces, who is eligible for naturalization under section 316(a) or 319(a) to participate in any naturalization proceeding from abroad. He or she may complete the entire naturalization process from abroad.
section 322(d) subsection ‘(d)’ added to existing sec. 322	Under certain conditions: 1) Allows for a United States citizen parent (and member of the Armed Forces) of a child filing for naturalization under section 322, to count any time residing abroad under military orders as physical presence in the United States, for purposes of section 322(a)(2)(A). 2) Allows for the child of the member of the Armed Forces to take the oath of allegiance abroad (if necessary). The child is not required to have temporary presence, a lawful entry, or maintain such lawful status in the United States. The child may complete the entire naturalization process from abroad.

Appendix 2
Sections of the INA amended by Pub. L. 110-181 (8 U.S.C. 1443a, also included)

Section 284 of the INA Applicability to Members of the Armed Forces

(a) * * *

(b) If a person lawfully admitted for permanent residence is the spouse or child of a member of the Armed Forces of the United States, is authorized to accompany the member and reside abroad with the member pursuant to the member's official orders, and is so accompanying and residing with the member (in marital union if a spouse), then the residence and physical presence of the person abroad shall not be treated as—

- (1) an abandonment or relinquishment of lawful permanent resident status for purposes of clause (i) of section 101(a)(13)(C); or
- (2) an absence from the United States for purposes of clause (ii) of such section.

Section 319 of the INA Married Persons and Employees of Certain Nonprofit Organizations

* * * * *

(e) (1) In the case of a person lawfully admitted for permanent residence in the United States who is the spouse of a member of the Armed Forces of the United States, is authorized to accompany such member and reside abroad with the member pursuant to the member's official orders, and is so accompanying and residing with the member in marital union, such residence and physical presence abroad shall be treated, for purposes of subsection (a) and section 316(a), as residence and physical presence in—

- (A) the United States; and
- (B) any State or district of the Department of Homeland Security in the United States.

(2) Notwithstanding any other provision of law, a spouse described in paragraph (1) shall be eligible for naturalization proceedings overseas pursuant to section 1701(d) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 8 U.S.C. 1443a).

Section 322 of the INA Children Born and Residing Outside the United States; Conditions for Acquiring Certificate of Citizenship

* * * * *

(d) In the case of a child of a member of the Armed Forces of the United States who is authorized to accompany such member and reside abroad with the member pursuant to the member's official orders, and is so accompanying and residing with the member—

- (1) any period of time during which the member of the Armed Forces is residing abroad pursuant to official orders shall be treated, for purposes of subsection (a)(2)(A), as physical presence in the United States;
- (2) subsection (a)(5) shall not apply; and
- (3) the oath of allegiance described in subsection (b) may be subscribed to abroad pursuant to section 1701(d) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 8 U.S.C. 1443a).

8 U.S.C. 1443a Naturalization Proceedings Overseas for Members of the Armed Forces and Their Spouses and Children

Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces, and persons made eligible for naturalization by section 319(e) or 322(d) of such Act, are available through United States embassies, consulates, and as practicable, United States military installations overseas.

Appendix 3

DEPARTMENT OF DEFENSE CERTIFICATE OF OVERSEAS ASSIGNMENT TO SUPPORT APPLICATION TO FILE PETITION FOR NATURALIZATION				
1. TO: Immigration and Naturalization Service Department of Justice	2. FROM: <i>(Agency, Command or Installation)</i>			
3. CERTIFICATION This is to certify that _____ of _____ <small style="display: block; text-align: center; margin: 0 100px;">SPONSOR'S NAME (Last, First, Middle Initial)</small> <small style="display: block; text-align: center; margin: 0 100px;">ORGANIZATION</small> is, or is being, assigned to _____ on or about _____. <small style="display: block; text-align: center; margin: 0 100px;">COUNTRY</small> <small style="display: block; text-align: center; margin: 0 100px;">DATE (YYYYMMDD)</small> <input type="checkbox"/> _____ who is the dependent spouse of the above named sponsor has <small style="display: block; text-align: center; margin: 0 100px;">NAME (Last, First, Middle Initial)</small> been authorized to accompany or join the sponsor overseas on or about _____ and will <small style="display: block; text-align: center; margin: 0 100px;">DATE (YYYYMMDD)</small> reside with the sponsor while abroad. <input type="checkbox"/> _____ who is the adopted child of the above named sponsor has been <small style="display: block; text-align: center; margin: 0 100px;">NAME (Last, First, Middle Initial)</small> authorized to accompany or join the sponsor overseas on or about _____ and will reside <small style="display: block; text-align: center; margin: 0 100px;">DATE (YYYYMMDD)</small> with the sponsor while abroad. Accordingly, he or she is believed to come within the provisions of the Immigration and Nationality Act of 1952, as amended, which waive the residence requirements for alien spouses of adopted children of United States citizens who are regularly stationed abroad.				
4. ISSUING OFFICIAL				
a. TYPED NAME <i>(Last, First, Middle Initial)</i>	b. GRADE	c. TITLE	d. SIGNATURE	e. DATE SIGNED <i>(YYYYMMDD)</i>

DD FORM 1278, MAY 2000
PREVIOUS EDITION MAY BE USED. Reset Adobe Professional 1.0

The following note is not on the form:

NOTE: Along with other information, this form requests information about an “adopted” child of the member of the Armed Forces (sponsor). In the case where the child is not adopted, an annotation should be made by the “Issuing Official” who completes and signs this form (authorized person listed in item 4). The Issuing Official should cross-out the word “adopted” and write “biological” above it.

Appendix 4

Please read Privacy Act Statement and Agency Disclosure Notice prior to completing this form.

APPLICATION FOR UNIFORMED SERVICES IDENTIFICATION CARD DEERS ENROLLMENT											OMB No. 0704-0020 OMB approval expires Sep 30, 2008	
SECTION I SPONSOR INFORMATION	1. NAME (Last, First, Middle)			2. SEX	3. SSN (for SM)		4. STATUS		5. BR OF SERVICE			
	6. PAY GRADE	7. RANK	8. GEN. CAT	9. TYPE OF CARD ISSUED		10. ID NO.		11. LAST UPDATE (YYYYMMDD)		12. V/I		
	13. CURRENT RESIDENCE ADDRESS					14. SUPPLEMENTAL ADDRESS INFORMATION						
	15. CITY			16. STATE	17. ZIP CODE		18. COUNTRY	19. UIC		20. HOME TELEPHONE NO. (Include Area Code)		
	21. DATE OF BIRTH (YYYYMMDD)		22. BLOOD TYPE	23. COLOR EYES	24. COLOR HAIR	25. HEIGHT		26. WEIGHT		27. MEDICARE	28. MARITAL STATUS	
	29. ELIG ST/MC EFF DATE (YYYYMMDD)		30. CARD EX/ELIG END DATE (YYYYMMDD)		31. PRIVILEGES AUTHORIZED (Enter correct abbreviation AFTER privilege) <small>Medical Civilian Medical Service Commissary Exchange Unlimited Exchange Limited Morale, Welfare & Recreation</small>						32. END ELIG REASON	
SECTION II DEPENDENT INFORMATION	33. NAME (Last, First, Middle)			34. SEX	35. RELATIONSHIP		36. SSN		37. ID NO.			
	38. LAST UPDATE (YYYYMMDD)		39. V/I	40. CURRENT RESIDENCE ADDRESS					41. SUPPLEMENTAL ADDRESS INFORMATION			
	42. CITY			43. STATE	44. ZIP CODE		45. COUNTRY	46. HOME TELEPHONE NO. (Include Area Code)		47. DATE OF BIRTH (YYYYMMDD)		
	48. MBI	49. STU	50. INCAP	51. MEDICARE	52. COLOR EYES	53. COLOR HAIR	54. HEIGHT		55. WEIGHT		56. MARITAL STATUS DATE (YYYYMMDD)	
	57. ELIG ST/MC EFF DATE (YYYYMMDD)		58. CARD EX/ELIG END DATE (YYYYMMDD)		59. PRIVILEGES AUTHORIZED (Enter correct abbreviation AFTER privilege) <small>Medical Civilian Medical Service Commissary Exchange Unlimited Exchange Limited Morale, Welfare & Recreation</small>						60. END ELIG REASON	
	61. NAME (Last, First, Middle)			62. SEX	63. RELATIONSHIP		64. SSN		65. ID NO.			
	66. LAST UPDATE (YYYYMMDD)		67. V/I	68. CURRENT RESIDENCE ADDRESS					69. SUPPLEMENTAL ADDRESS INFORMATION			
	70. CITY			71. STATE	72. ZIP CODE		73. COUNTRY	74. HOME TELEPHONE NO. (Include Area Code)		75. DATE OF BIRTH (YYYYMMDD)		
	76. MBI	77. STU	78. INCAP	79. MEDICARE	80. COLOR EYES	81. COLOR HAIR	82. HEIGHT		83. WEIGHT		84. MARITAL STATUS DATE (YYYYMMDD)	
	85. ELIG ST/MC EFF DATE (YYYYMMDD)		86. CARD EX/ELIG END DATE (YYYYMMDD)		87. PRIVILEGES AUTHORIZED (Enter correct abbreviation AFTER privilege) <small>Medical Civilian Medical Service Commissary Exchange Unlimited Exchange Limited Morale, Welfare & Recreation</small>						88. END ELIG REASON	
SECTION III SPONSOR DECLARATION AND REMARKS	89. REMARKS (Cite legal documentation, as applicable.)										NOTARY SIGNATURE AND SEAL	
	I have read and understand the "Conditions Applicable to Sponsor or Applicant" printed in Section VIII. I certify the information provided in connection with the eligibility requirements of this form is true and accurate to the best of my knowledge. <i>(If not signed in the presence of the verifying official, the signature must be notarized.)</i>											
	90. SIGNATURE								91. DATE SIGNED (YYYYMMDD)			
SECTION IV VERIFIED BY	92. TYPED NAME (Last, First, Middle)			93. PAY GRADE	94. UNIT/COMMAND NAME							
	95. TITLE			96. UIC	97. DUTY PHONE NO.		98. UNIT/COMMAND ADDRESS (Street, City, State, ZIP Code)					
	99. SIGNATURE			100. DATE VERIFIED (YYYYMMDD)								
SECTION V ISSUED BY	101. TYPED NAME (Last, First, Middle)			102. PAY GRADE	103. UNIT/COMMAND NAME							
	104. TITLE			105. UIC	106. DUTY PHONE NO.		107. UNIT/COMMAND ADDRESS (Street, City, State, ZIP Code)					
	108. SIGNATURE			109. DATE ISSUED (YYYYMMDD)								
SECTION VI RECEIPT	RECEIPT OF NEW CARD IS ACKNOWLEDGED											
	110. SIGNATURE								111. DATE ISSUED (YYYYMMDD)			

DD FORM 1172, SEP 2005

PREVIOUS EDITION MAY BE USED.
This form valid for issue of ID card 90 days from date of verification.

Reset

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